

**REMARKS**

The Office Action of November 27, 2007 has been reviewed and carefully considered. Claims 20, 23, and 24 have been amended to more clearly recite a return of the desired data set. No new matter has been added. Claims 1-24 are currently pending. In view of the following remarks, reconsideration and allowance of all of the claims pending in the application are respectfully requested.

At the outset, Applicants appreciate the Office's indication that claims 10-19 are allowed and that claims 1-9 would be allowed if rewritten to overcome the rejections under 35 U.S.C. § 101.

**I. REJECTIONS UNDER 35 U.S.C. § 101**

On page 2 of the Office Action, claims 1-9 were rejected under 35 U.S.C. § 101 as allegedly being directed toward non-statutory subject matter. However, Applicants respectfully disagree.

Specifically, regarding claims 1, 4, 5, and 6, the Office asserts that “[e]ach of these claims are addressed to a ‘system’ which is not a physical system but an arrangement of software instructions...[which] amounts to nothing more than an arrangement of text, and thus is not considered to fall within one of the four statutory categories of invention.” *See, e.g.*, Office Action at p. 2. However, there is no such requirement on patentable subject matter as long as the claimed invention as a whole accomplishes a practical application. That is, it must produce a “useful, concrete and tangible result.” State Street Bank & Trust Co. v. Signature Financial Group Inc., 149 F.3d 1368, 1373, 47 USPQ2d 1596, 1601-02. Furthermore, Applicants direct the Examiner to the case law set forth in In re Beauregard, 35 USPQ 2d 1383, 1384 (Fed. Cir. 1995), In re Lundgren, (B.P.A.I. Case No. 2003-2088 (September 28, 2005)), and others, which clearly provide a patentable subject matter basis for claims 1, 4, 5, and 6, and their corresponding dependent claims.

At this point it should be noted that claims 1-9 do recite tangible embodiments. For example, claim 1 recites a “system for automated generation of one or more query language statements comprising: a syntax pattern selector module for selecting, in an automated process, a syntax pattern corresponding to a desired function provided to the syntax pattern selector module and a syntax standard for use in generating the one or more query language statements; a statement assembly module for populating the syntax pattern in an automated process with an argument data set associated with a desired data set provided to the statement assembly module as part of the process of generating the one or more query language statements; and whereby at least one query language statement is assembled to be run against a data source to return the desired data set.” In other words, claim 1 recites a *system* having several *modules* that actually and physically perform the features of the claim not merely to provide “an arrangement of text,” as alleged by the Office. As a result, this clearly contradicts the Office’s assertion that the claims do not recite a “physical system.” Claims 1, 4, 5, and 6, and their corresponding dependent claims recite similar tangible embodiments.

In view of the foregoing, it is respectfully requested that the aforementioned non-statutory subject matter rejection of claims 1-9 be withdrawn.

## **II. REJECTIONS UNDER 35 U.S.C. § 102**

On page 2 of the Office Action, claims 20-24 were rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by U.S. Patent No. 6,442,557 to Buteau (hereinafter “Buteau”). The Office Action alleges that each and every claimed limitation is shown by Buteau, the reasons for the rejection allegedly being set forth in the Office Action dated March 10, 2006. However, Applicant respectfully disagrees.

Under 35 U.S.C. § 102, the Patent Office bears the burden of presenting at least a prima facie case of anticipation. As stated in MPEP § 2131, “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” Verdegaal Bros. v. Union Oil Co. of California, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Specifically, independent claim 20 recites “a tangible medium having a computer readable program code embodied therein for generating one or more query language statements through an automated computer-implemented method comprising...*code for causing the processor to select a syntax pattern* corresponding to the functional element; and *code for causing the processor to populate the selected syntax pattern with the identified argument data set* to assemble at least one query language statement to be run against a data source.” Applicants incorporate the remarks from the previous response filed June 12, 2006 and request that those remarks be considered along with the following comments.

Applicant respectfully submits that Buteau does not teach at least these limitations.

First, the Office is not considering claim 20 as a whole. In rejecting claim 20, for example, the Office inconsistently construes a second instance of a claim element in a manner that is wholly inconsistent with how the Office Action previously construed a first instance of the same claim element. Specifically, the Office Action inconsistently and improperly construes the claim term “syntax pattern” to reject the claimed “code for causing the processor to ***select a syntax pattern*** corresponding to the functional element” in combination with the claimed “code for causing the processor ***to populate the selected syntax pattern*** with the ***identified argument data set*** to assemble at least one query language statement to be run against a data source” of claim 20 (emphasis added).

To reject claim 20, the Office interprets the claimed “syntax pattern” in two different and inconsistent manners. For example, the Office first rejects the claimed “syntax pattern” as being equivalent to query “results” in Buteau. *See, e.g.*, Office Action at p. 4, stating that a “query functions to retrieve results, the ***results being the selected syntax pattern***” (emphasis added). Contradictorily, to reject the claimed features of the “code for causing the processor ***to populate the selected syntax pattern***,” the Office states that the “graphical interface is used to create and fill (i.e., populate) the various portions of the ***query***” (emphasis added). *See, e.g.*, Office Action at p. 4, rejecting the claimed “statement assembly module for ***populating the syntax pattern*** in an automated process” (emphasis added). Thus, the Office first construes the claimed “syntax pattern” as being query “results,” and the Office then construes the claimed “syntax pattern” as being the “query.” It is clearly inconsistent to interpret the “syntax pattern” as being both a *query* and the *results of the same query*. Thus, it is apparent that the Office is dissecting and rejecting the claim elements in isolation and is not interpreting claim 20 as a whole. The Office, therefore, inconsistently and improperly construes two of the instances of the claim term “syntax pattern” in claim 20 in the rejection and hence the rejection under 35 U.S.C. § 102 is improper.

Second, the Office ignores the relationships recited in claim 20 to reject the claimed “desired data set.” To reject claim 20, the Office improperly interprets the claimed “syntax pattern” as being the same as the claimed “desired data set.” Specifically, the Office fails to consider the relationship between the claimed “code for causing the processor to identify an argument data set associated with ***a desired data*** set and the identified functional element as part of generating the one or more query language statements” in combination with “code for causing the processor to populate the ***selected syntax pattern*** with the identified argument data set to assemble at least one

query language statement to be run against a data source *to return the desired data set*,” as expressly recited in claim 20 (emphasis added).

To reject the first instance of the claimed “desired data set,” the Office states that the “desired data set can be other attributes in the query, such as those defined in the ORDER BY command line, but the phrase ‘desired data set’ is so broad it could refer to any command in the query, any predicate in the query, or even the search result.” *See, e.g.*, Office Action at p. 4. The Office further states that the “query language statement illustrated in Fig. 9 is run against relational data to return *query results*” (emphasis added). *See, e.g.*, Office Action at p. 4. Thus, the Office is interpreting the “query results” as anticipating the claimed “desired data set.”

However, the above statements clearly demonstrate that the Office is not interpreting the claim as a whole. For example, following the analysis included in the Office Action, the Office improperly interprets the claimed “syntax pattern” as being the same as the claimed “desired data set.” In the remarks above copied from the Office Action, the Office asserts that the claimed “desired data set” is anticipated by the query results of Buteau. *See, e.g.*, Office Action at p. 4, *stating* that the “query language statement illustrated in Fig. 9 is run against relational data to return *query results*” rejects the claimed “at least one query language statement is assembled to be run against a data source to return *the desired data set*” (emphasis added). As discussed above, the Office also finds that the claimed “syntax pattern” is anticipated by the query “results” of Buteau. *See, e.g.*, Office Action at p. 4. Hence, the Office alleges that the query results of Buteau returned from querying “relational data” anticipate both the claimed “desired data set” and the claimed “syntax pattern.”

Such an analysis clearly indicates that claim 20 is not being interpreted as a whole since the relationships specified in claim 20 would preclude such a rejection under 35 U.S.C. § 102.

Specifically, the query results of Buteau returned from querying “relational data,” as alleged in the Office Action, cannot anticipate both the claimed “desired data set” and the claimed “syntax pattern.” In fact, claim 20 recites that the “code for causing the processor to identify an argument data set associated with *a desired data* set and the identified functional element as part of generating the one or more query language statements” and the “code for causing the processor to populate the *selected syntax pattern* with the identified argument data set to assemble at least one query language statement to be run against a data source *to return the desired data set.*” Thus, a selection of a syntax pattern may be used to generate one or more query language statements, and at least one query language statement is assembled to return the desired data set. Accordingly, the desired data set is returned based on the query language statement, which is based on a selection of the syntax pattern. Hence, the claimed “syntax pattern” is not the same as the claimed “desired data set.”

In spite of the clear differences between the claimed “desired data set” and the claimed “syntax pattern” specified in the claim, the Office rejects both the claimed “desired data set” and the claimed “syntax pattern” based on query “results” of Buteau. *See, e.g.*, Office Action at p. 4. Hence, the Office inconsistently and improperly applies the disclosure of Buteau in a manner that disregards the relationships as specified in the claim.

Third, the Office inconsistently interprets the claimed “desired data set” to reject claim 20 over Buteau. The Office Action states that the “desired data set can be other attributes *in the query*, . . . or even the *search result* (emphasis added). *See, e.g.*, Office Action at p. 4. The Office Action further states that the “query language statement illustrated in Fig. 9 is run against relational data to return *query results*” (emphasis added) as rejecting the claimed “at least one query language statement is assembled to be run against a data source to return *the desired data set*” (emphasis added). *See, e.g.*, Office Action at p. 4. Based on this analysis, the Office is construing the claimed

“desired data set” as being both the query and a search result from running the query. *See, e.g.*, Office Action at p. 4. Thus, the Office construes a second instance of the claimed “desired data set” inconsistently with how the Action previously construed the first instance of the claimed “desired data set.” Clearly, the Office is not interpreting the claim as a whole and the rejection under 35 U.S.C. § 102(e) is improper.

In summary, the Action has inconsistently construed different instances of claim elements in a manner which is inconsistent with how the Office Action first interpreted these claim elements, and has ignored the relationships specified to support a rejection of claim 20. For at least these reasons, the rejection of claim 20 under 35 U.S.C. § 102 is improper because the Action is not interpreting claim 20 as a whole. Specifically, the Office has not established that Buteau teaches “code for causing the processor to *select a syntax pattern* corresponding to the functional element” in combination with the claimed “code for causing the processor *to populate the selected syntax pattern* with the *identified argument data set* to assemble at least one query language statement to be run against a data source,” as expressly recited in claim 20 (emphasis added). Further, the Office has not established that Buteau teaches a claimed “code for causing the processor to identify an argument data set associated with *a desired data* set and the identified functional element as part of generating the one or more query language statements” in combination with “code for causing the processor to populate the *selected syntax pattern* with the identified argument data set to assemble at least one query language statement to be run against a data source *to return the desired data set*,” as expressly recited in claim 20 (emphasis added). Therefore, the rejection of claim 20 is improper.

As discussed above, for a proper rejection under 35 U.S.C. § 102, each and every claim limitation must be shown in a single reference. The Office Action has failed to meet this requirement and thus the rejection is unsupported. In view of the foregoing, it is respectfully

submitted that Buteau fails to teach each and every limitation of claim 20 and therefore the rejection should be withdrawn.

Regarding independent claims 21, 23, and 24, these claim recite subject matter related to claim 20. Thus, the arguments set forth above with respect to claim 20 are equally applicable to claims 21, 23, and 24. Accordingly, is it respectfully submitted that claims 21, 23, and 24 are allowable over Buteau for the same reasons as set forth above with respect to claim 20.

Regarding claim 22, this claims is dependent upon independent claim 21. Thus, since independent claim 21 should be allowable as discussed above, claim 22 should also be allowable at least by virtue of its dependency on independent claim 21.

In view of the foregoing, it is respectfully submitted that Buteau fails to teach each and every limitation of claims 20-24 and therefore the rejection should be withdrawn.

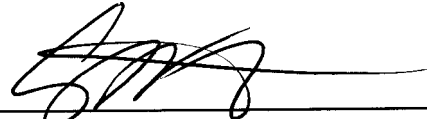


**CONCLUSION**

It is respectfully submitted that this application and all pending claims are in condition for allowance and such disposition is earnestly solicited. If the Examiner believes that prosecution and allowance of the application will be expedited through an interview, whether personal or telephonic, the Examiner is invited to telephone the undersigned with any suggestions leading to the favorable disposition of the application.

It is believed that no additional fees are due for filing this Response. However, if it is determined otherwise, please charge or credit any variance to Deposit Account No. 50-0206.

Respectfully submitted,



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